

SB1460



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1460

Introduced 2/9/2011, by Sen. Christine Radogno

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-206.1

from Ch. 95 1/2, par. 6-206.1

Amends the Illinois Vehicle Code. Makes a technical change in a Section concerning monitoring device driving permits.

LRB097 06969 HEP 47062 b

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 6-206.1 as follows:

6 (625 ILCS 5/6-206.1) (from Ch. 95 1/2, par. 6-206.1)

7 Sec. 6-206.1. Monitoring Device Driving Permit.
8 Declaration of Policy. It is hereby declared a policy of the
9 ~~the~~ State of Illinois that the driver who is impaired by
10 alcohol, other drug or drugs, or intoxicating compound or
11 compounds is a threat to the public safety and welfare.
12 Therefore, to provide a deterrent to such practice, a statutory
13 summary driver's license suspension is appropriate. It is also
14 recognized that driving is a privilege and therefore, that the
15 granting of driving privileges, in a manner consistent with
16 public safety, is warranted during the period of suspension in
17 the form of a monitoring device driving permit. A person who
18 drives and fails to comply with the requirements of the
19 monitoring device driving permit commits a violation of Section
20 6-303 of this Code.

21 The following procedures shall apply whenever a first
22 offender is arrested for any offense as defined in Section
23 11-501 or a similar provision of a local ordinance:

1 (a) Subsequent to a notification of a statutory summary
2 suspension of driving privileges as provided in Section
3 11-501.1, the court, after informing the first offender, as
4 defined in Section 11-500, of his or her right to a monitoring
5 device driving permit, hereinafter referred to as a MDDP, and
6 of the obligations of the MDDP, shall enter an order directing
7 the Secretary of State (hereinafter referred to as the
8 Secretary) to issue a MDDP to the offender, unless the offender
9 has opted, in writing, not to have a MDDP issued. After opting
10 out of having a MDDP issued, at any time during the summary
11 suspension, the offender may petition the court for an order
12 directing the Secretary to issue a MDDP. However, the court
13 shall not enter the order directing the Secretary to issue the
14 MDDP, in any instance, if the court finds:

15 (1) The offender's driver's license is otherwise
16 invalid;

17 (2) Death or great bodily harm resulted from the arrest
18 for Section 11-501;

19 (3) That the offender has been previously convicted of
20 reckless homicide or aggravated driving under the
21 influence involving death; or

22 (4) That the offender is less than 18 years of age.

23 Any court order for a MDDP shall order the person to pay
24 the Secretary a MDDP Administration Fee in an amount not to
25 exceed \$30 per month, to be deposited into the Monitoring
26 Device Driving Permit Administration Fee Fund. The Secretary

1 shall establish by rule the amount and the procedures, terms,
2 and conditions relating to these fees. The order shall further
3 specify that the offender must have an ignition interlock
4 device installed within 14 days of the date the Secretary
5 issues the MDDP. The ignition interlock device provider must
6 notify the Secretary, in a manner and form prescribed by the
7 Secretary, of the installation. If the Secretary does not
8 receive notice of installation, the Secretary shall cancel the
9 MDDP.

10 A MDDP shall not become effective prior to the 31st day of
11 the original statutory summary suspension.

12 (a-1) A person issued a MDDP may drive for any purpose and
13 at any time, subject to the rules adopted by the Secretary
14 under subsection (g). The person must, at his or her own
15 expense, drive only vehicles equipped with an ignition
16 interlock device as defined in Section 1-129.1, but in no event
17 shall such person drive a commercial motor vehicle.

18 (a-2) Persons who are issued a MDDP and must drive
19 employer-owned vehicles in the course of their employment
20 duties may seek permission to drive an employer-owned vehicle
21 that does not have an ignition interlock device. The employer
22 shall provide to the Secretary a form, as prescribed by the
23 Secretary, completed by the employer verifying that the
24 employee must drive an employer-owned vehicle in the course of
25 employment. If approved by the Secretary, the form must be in
26 the driver's possession while operating an employer-owner

1 vehicle not equipped with an ignition interlock device. No
2 person may use this exemption to drive a school bus, school
3 vehicle, or a vehicle designed to transport more than 15
4 passengers. No person may use this exemption to drive an
5 employer-owned motor vehicle that is owned by an entity that is
6 wholly or partially owned by the person holding the MDDP, or by
7 a family member of the person holding the MDDP. No person may
8 use this exemption to drive an employer-owned vehicle that is
9 made available to the employee for personal use. No person may
10 drive the exempted vehicle more than 12 hours per day, 6 days
11 per week.

12 (b) (Blank).

13 (c) (Blank).

14 (c-1) If the holder of the MDDP is convicted of or receives
15 court supervision for a violation of Section 6-206.2, 6-303,
16 11-204, 11-204.1, 11-401, 11-501, 11-503, 11-506 or a similar
17 provision of a local ordinance or a similar out-of-state
18 offense or is convicted of or receives court supervision for
19 any offense for which alcohol or drugs is an element of the
20 offense and in which a motor vehicle was involved (for an
21 arrest other than the one for which the MDDP is issued), or
22 de-installs the BAIID without prior authorization from the
23 Secretary, the MDDP shall be cancelled.

24 (c-5) If the court determines that the person seeking the
25 MDDP is indigent, the court shall provide the person with a
26 written document, in a form prescribed by the Secretary, as

1 evidence of that determination, and the person shall provide
2 that written document to an ignition interlock device provider.
3 The provider shall install an ignition interlock device on that
4 person's vehicle without charge to the person, and seek
5 reimbursement from the Indigent BAIID Fund. If the court has
6 deemed an offender indigent, the BAIID provider shall also
7 provide the normal monthly monitoring services and the
8 de-installation without charge to the offender and seek
9 reimbursement from the Indigent BAIID Fund. Any other monetary
10 charges, such as a lockout fee or reset fee, shall be the
11 responsibility of the MDDP holder. A BAIID provider may not
12 seek a security deposit from the Indigent BAIID Fund. The court
13 shall also forward a copy of the indigent determination to the
14 Secretary, in a manner and form as prescribed by the Secretary.

15 (d) The Secretary shall, upon receiving a court order,
16 issue a MDDP to a person who applies for a MDDP under this
17 Section. Such court order shall contain the name, driver's
18 license number, and legal address of the applicant. This
19 information shall be available only to the courts, police
20 officers, and the Secretary, except during the actual period
21 the MDDP is valid, during which time it shall be a public
22 record. The Secretary shall design and furnish to the courts an
23 official court order form to be used by the courts when
24 directing the Secretary to issue a MDDP.

25 Any submitted court order that contains insufficient data
26 or fails to comply with this Code shall not be utilized for

1 MDDP issuance or entered to the driver record but shall be
2 returned to the issuing court indicating why the MDDP cannot be
3 so entered. A notice of this action shall also be sent to the
4 MDDP applicant by the Secretary.

5 (e) (Blank).

6 (f) (Blank).

7 (g) The Secretary shall adopt rules for implementing this
8 Section. The rules adopted shall address issues including, but
9 not limited to: compliance with the requirements of the MDDP;
10 methods for determining compliance with those requirements;
11 the consequences of noncompliance with those requirements;
12 what constitutes a violation of the MDDP; and the duties of a
13 person or entity that supplies the ignition interlock device.

14 (h) The rules adopted under subsection (g) shall provide,
15 at a minimum, that the person is not in compliance with the
16 requirements of the MDDP if he or she:

17 (1) tampers or attempts to tamper with or circumvent
18 the proper operation of the ignition interlock device;

19 (2) provides valid breath samples that register blood
20 alcohol levels in excess of the number of times allowed
21 under the rules;

22 (3) fails to provide evidence sufficient to satisfy the
23 Secretary that the ignition interlock device has been
24 installed in the designated vehicle or vehicles; or

25 (4) fails to follow any other applicable rules adopted
26 by the Secretary.

1 (i) Any person or entity that supplies an ignition
2 interlock device as provided under this Section shall, in
3 addition to supplying only those devices which fully comply
4 with all the rules adopted under subsection (g), provide the
5 Secretary, within 7 days of inspection, all monitoring reports
6 of each person who has had an ignition interlock device
7 installed. These reports shall be furnished in a manner or form
8 as prescribed by the Secretary.

9 (j) Upon making a determination that a violation of the
10 requirements of the MDDP has occurred, the Secretary shall
11 extend the summary suspension period for an additional 3 months
12 beyond the originally imposed summary suspension period,
13 during which time the person shall only be allowed to drive
14 vehicles equipped with an ignition interlock device; provided
15 further there are no limitations on the total number of times
16 the summary suspension may be extended. The Secretary may,
17 however, limit the number of extensions imposed for violations
18 occurring during any one monitoring period, as set forth by
19 rule. Any person whose summary suspension is extended pursuant
20 to this Section shall have the right to contest the extension
21 through a hearing with the Secretary, pursuant to Section 2-118
22 of this Code. If the summary suspension has already terminated
23 prior to the Secretary receiving the monitoring report that
24 shows a violation, the Secretary shall be authorized to suspend
25 the person's driving privileges for 3 months, provided that the
26 Secretary may, by rule, limit the number of suspensions to be

1 entered pursuant to this paragraph for violations occurring
2 during any one monitoring period. Any person whose license is
3 suspended pursuant to this paragraph, after the summary
4 suspension had already terminated, shall have the right to
5 contest the suspension through a hearing with the Secretary,
6 pursuant to Section 2-118 of this Code. The only permit the
7 person shall be eligible for during this new suspension period
8 is a MDDP.

9 (k) A person who has had his or her summary suspension
10 extended for the third time, or has any combination of 3
11 extensions and new suspensions, entered as a result of a
12 violation that occurred while holding the MDDP, so long as the
13 extensions and new suspensions relate to the same summary
14 suspension, shall have his or her vehicle impounded for a
15 period of 30 days, at the person's own expense. A person who
16 has his or her summary suspension extended for the fourth time,
17 or has any combination of 4 extensions and new suspensions,
18 entered as a result of a violation that occurred while holding
19 the MDDP, so long as the extensions and new suspensions relate
20 to the same summary suspension, shall have his or her vehicle
21 subject to seizure and forfeiture. The Secretary shall notify
22 the prosecuting authority of any third or fourth extensions or
23 new suspension entered as a result of a violation that occurred
24 while the person held a MDDP. Upon receipt of the notification,
25 the prosecuting authority shall impound or forfeit the vehicle.

26 (l) A person whose driving privileges have been suspended

1 under Section 11-501.1 of this Code and who had a MDDP that was
2 cancelled, or would have been cancelled had notification of a
3 violation been received prior to expiration of the MDDP,
4 pursuant to subsection (c-1) of this Section, shall not be
5 eligible for reinstatement when the summary suspension is
6 scheduled to terminate. Instead, the person's driving
7 privileges shall be suspended for a period of not less than
8 twice the original summary suspension period, or for the length
9 of any extensions entered under subsection (j), whichever is
10 longer. During the period of suspension, the person shall be
11 eligible only to apply for a restricted driving permit. If a
12 restricted driving permit is granted, the offender may only
13 operate vehicles equipped with a BAIID in accordance with this
14 Section.

15 (m) Any person or entity that supplies an ignition
16 interlock device under this Section shall, for each ignition
17 interlock device installed, pay 5% of the total gross revenue
18 received for the device, including monthly monitoring fees,
19 into the Indigent BAIID Fund. This 5% shall be clearly
20 indicated as a separate surcharge on each invoice that is
21 issued. The Secretary shall conduct an annual review of the
22 fund to determine whether the surcharge is sufficient to
23 provide for indigent users. The Secretary may increase or
24 decrease this surcharge requirement as needed.

25 (n) Any person or entity that supplies an ignition
26 interlock device under this Section that is requested to

1 provide an ignition interlock device to a person who presents
2 written documentation of indigency from the court, as provided
3 in subsection (c-5) of this Section, shall install the device
4 on the person's vehicle without charge to the person and shall
5 seek reimbursement from the Indigent BAIID Fund.

6 (o) The Indigent BAIID Fund is created as a special fund in
7 the State treasury. The Secretary shall, subject to
8 appropriation by the General Assembly, use all money in the
9 Indigent BAIID Fund to reimburse ignition interlock device
10 providers who have installed devices in vehicles of indigent
11 persons pursuant to court orders issued under this Section. The
12 Secretary shall make payments to such providers every 3 months.
13 If the amount of money in the fund at the time payments are
14 made is not sufficient to pay all requests for reimbursement
15 submitted during that 3 month period, the Secretary shall make
16 payments on a pro-rata basis, and those payments shall be
17 considered payment in full for the requests submitted.

18 (p) The Monitoring Device Driving Permit Administration
19 Fee Fund is created as a special fund in the State treasury.
20 The Secretary shall, subject to appropriation by the General
21 Assembly, use the money paid into this fund to offset its
22 administrative costs for administering MDDPs.

23 (Source: P.A. 95-400, eff. 1-1-09; 95-578, eff. 1-1-09; 95-855,
24 eff. 1-1-09; 95-876, eff. 8-21-08; 96-184, eff. 8-10-09.)